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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91198021
Party	Defendant American International Industries
Correspondence Address	MARK D. KREMER CONKLE, KREMER, & ENGEL, PLC 3130 WILSHIRE BLVD STE 500 SANTA MONICA, CA 90403-2351 UNITED STATES tm@conklelaw.com
Submission	Response to Board Order/Inquiry
Filer's Name	Kevin R. Keegan
Filer's e-mail	tm@conklelaw.com
Signature	/Kevin R. Keegan/
Date	04/29/2011
Attachments	2011-04-29 All Mtc to Correct Applicant Entity Type.pdf ( 28 pages )(2584943 bytes ) Page 29 2011-04-29 All Mtc to Correct Applicant Entity Type.pdf ( 1 page )(64372 bytes )

In the United States Patent and Trademark Office  
Before The Trademark Trial and Appeal Board

Arminex International, Inc.,

Opposer,

v.

American International Industries,

Applicant.

**MOTION TO CORRECT  
APPLICANT’S ENTITY TYPE;  
DECLARATIONS OF KEVIN R.  
KEEGAN, MAXWELL HARWITT,  
AND ZVI RYZMAN; EXHIBITS 1  
THROUGH 4**

Proceeding No. 91198021

Serial No. 85080615

Mark: GELIQUE

**I. INTRODUCTION**

A clerical error resulted in the incorrect designation of Applicant’s entity type in the application for the trademark GELIQUE, Serial No. 85080615 (“Application”). The error was done without any intent to deceive or mislead. Indeed, there is no California entity that exists as designated in the Application nor is Applicant related to any similarly named entity. Trademark rules, regulations, and case law all declare that an amendment to correct this type of clerical error should be freely granted.

The Trademark Trial and Appeal Board’s (“Board”) denial of Applicant’s initial motion to amend its entity type, is misplaced. In denying Applicant’s prior motion, the Board relied on cases in which the misidentification of the owner of the mark was not a clerical error, but was instead the result of an improper determination of the true owner of the mark. In each of these cases the application was filed in the name of an entity that existed and was closely related to the true owner of the mark.

## **II. BACKGROUND**

Applicant is identified in the records of the California Secretary of State as a California general partnership and has operated as a general partnership for nearly 40 years. (Ryzman Dec. ¶¶ 2 & 4) Applicant is a manufacturer of numerous cosmetic products including nail care products which are the goods identified in the Application. (Keegan Dec. ¶ 7) Applicant has over eighty trademark registrations in class three for cosmetic goods and currently has seventeen trademark applications pending in the same class. (Harwitt Dec. ¶ 5) Many of the goods sold under these trademarks are displayed on Applicant's website. (Keegan Dec. ¶ 7; Ex. 3)

On July 8, 2010, Applicant filed an application for trademark registration of the GELIQUE mark. In this application, the owner of the mark was correctly identified as "American International Industries" but the entity type was improperly designated as "a California corporation" when it should have stated "a general partnership." The misidentification of the entity type was a clerical error that was done without any intent to deceive or mislead. (Harwitt Dec. ¶ 4) It resulted from the simple and accidental error of clicking on the wrong entity designation in the TEAS electronic application. (Harwitt Dec. ¶ 4) All other aspects of the application, including Applicant's name, street address, and city and state of operation were correctly identified.

On March 4, 2011 Applicant filed a Motion to Amend seeking to correct Applicant's entity type. Applicant's Motion to Amend was based in part on the fact that no such corporation existed as of the filing date and that no such corporation exists today. On March 30, 2011, the Board responded by denying, without prejudice, the Motion on the basis that an application may not be amended to designate another entity as the applicant. Trademark Rule 2.71(d). The Board identified a suspended corporation similarly, but not identically, named "American International Industries, Inc." based in Camarillo, California. The Board ordered Applicant to explain the discrepancy between the statement in its Motion and the records of the Secretary of State of the State of California.

No corporation under the name "American International Industries" has existed in California at any time period from the filing of this Application to today. (Keegan Dec. ¶ 2) Suspended corporations exist under similar names such as "American International Industries, Inc." (Keegan Dec. ¶ 3) However, these corporate entities are unrelated to Applicant. (Keegan Dec. ¶ 3) Applicant's Statement of Partnership for American International Industries, has been recorded with the California Secretary of State. (Ryzman Dec. ¶ 4; Ex. 2)

### III. ARGUMENT

The Trademark Manual of Examination and Procedure (“TMEP”) states that and amendment should be permitted when an incorrect entity designation is made as part of a clerical error. TMEP § 1201.02(c)(7) (7th ed. 2010). However, the TMEP notes that “an application cannot be amended to substitute another entity as the applicant.” TMEP § 803.06; *See also* 37 C.F.R. 2.71(d). The distinction between the two scenarios is a fine point, but in simple terms, the distinction is whether the amendment seeks to correct a clerical error, *Accu Personel Inc. v. Accustaff Inc.*, 38 USPQ2d 1443 (TTAB 1996) (amendment permitted), or an ownership determination, *Huang v. Tzu Wei Chen Food Co. Ltd.*, 849 F.2d 1458 (Fed. Cir. 1988) (amendment not permitted). Such distinctions often turn on the intent of the parties.

#### A. ALL SHOULD BE PERMITTED TO AMEND A CLERICAL ERROR IN ITS ENTITY TYPE

Numerous cases hold that an applicant should be permitted to amend a clerical error. *Custom Computer Services, Inc. v. Paychex Properties, Inc.*, 337 F.3d 1334 (Fed. Cir. 2003); *U.S. Pioneer Electronics Corp. v. Evans Marketing, Inc.*, 183 USPQ 613 (Comm’r Pats. 1974); *Accu Personel Inc. v. Accustaff Inc.*, 38 USPQ2d 1443 (TTAB 1996). For example, in *Accu Personel Inc. v. Accustaff Inc.* four regional companies decided to merge to form one large company under the new name Accustaff Inc. *Accu Personel Inc.*, 38 USPQ2d at 1444. On April 13, 1993 Accustaff Inc. executed an intent-to-use trademark application that named Accustaff Inc. as the

applicant. *Id.* However, the merger of the four regional companies did not take effect until May 4, 1992. *Id.* As such, the application was filed by a non-existent entity and potentially void without an amendment.

The TTAB permitted Accustaff to amend the application to state the four regional companies as the applicant. *Id.* at 1445. The Board reasoned that an amendment was proper “where the application was filed by the proper person, but in an incorrect name or with an incorrect entity designation.” *Id.* The Board contrasted these facts with cases “where two separate commercial enterprises are in existence on the application filing date, and the application is filed by the wrong one.” *Id.* In such cases, amendments are not permitted.

Similarly, in *U.S. Pioneer Electronics Corp. v. Evans Marketing, Inc.* the applicant filed a trademark registration under the name Evans Marketing Company, Inc., however the true name of the applicant was Evans Marketing, Inc. *U.S. Pioneer Electronics Corp.*, 183 USPQ at 613. The attorney for Evans Marketing, Inc., submitted a declaration stating that the mistake was a clerical error that was not done with any intent to deceive. *Id.* The Commissioner reasoned that the name on the application was “only slightly at variance with applicant’s proper name” and as such this was not an attempt to substitute one entity for another. *Id.* at 614. The Commission noted that “it is Patent Office practice to permit the correction of a

mistake in the name of an applicant where the error is not significant and not intentional.” *Id.*

In this case, the Application correctly identified as American International Industries as the owner of the GELIQUE mark. However due to a clerical error, without any intent to deceive, the entity type was incorrectly stated. (Harwitt Dec. ¶ 4) This variance is slight and was unintentional. Applicant has been registered in California as a general partnership for nearly 40 years. (Ryzman Dec. ¶¶ 2 & 4) During this time Applicant has registered over 80 trademarks in class three and currently has seventeen applications pending. (Harwitt Dec. ¶ 5) Applicant instructed its attorney’s to file the Application in Applicant’s name. (Ryzman ¶ 3)

Further demonstrating that the incorrect entity type was a clerical error, there is no corporation in California operating under the name as it currently appears on the Application, nor has there been since the filing date of this Application. (Keegan Dec. ¶ 2) Any similarly named corporations are unrelated to Applicant. (Keegan Dec. ¶ 3) Likewise, Applicant’s attorney’s are not authorized to represent any of the similarly named corporations. (Keegan Dec. ¶ 4)

As a result, the only reasonable conclusion that can be drawn is that the misidentification of Applicant's entity type was a clerical error and that an amendment to correct this clerical error should be permitted.

**B. THE APPLICATION WAS NOT FILED BY A RELATED ENTITY OR AN ENTITY IN EXISTENCE**

An applicant cannot amend an application which was properly filed in the name of an existing entity if it later discovers that the entity was not the true owner of the mark. TMEP 803.06; 37 C.F.R. 2.71(d). These errors are not the result of clerical errors, but are instead the result of an improper determination regarding who the true owner of the mark is. *Great Seats, Ltd. v. Great Seats, Inc.*, 84 U.S.P.Q.2d 1235 (2007).

For example, in *Great Seats, Ltd. v. Great Seats, Inc.*, 84 U.S.P.Q.2d 1235 (2007), an individual by the name of Danny Matta and his wife were the sole shareholders in two separate corporations. *Id.* at 1237. The first corporation used the mark GREAT SEATS as a common law trademark as far back as 1995. *Id.* at 1238. The second corporation was created on March 12, 1997. *Id.* The second corporation then filed for an application for the GREAT SEATS mark on April 21, 1997. *Id.* However, there was no evidence of any transfer of rights in the GREAT SEATS mark from the first corporation to the second. *Id.*



The TTAB refused to permit an amendment to the registration changing the owner from the second corporation to the first. *Id.* at 1244. In so doing, the TTAB underscored reiterated its policy permitting amendments:

Where there exists as of the application filing date but a single continuing commercial enterprise which is the owner of the mark, and it is that entity which files the application, the application is deemed to have been filed by the owner of the mark even if the applicant, that single commercial enterprise, is misidentified in the application as to its name or entity designation (such as corporation, partnership, etc.).

*Id.* at 1240. The error in the GREAT SEATS application was not the result of a clerical error, but was instead the consequence of an improper determination regarding who the identity of the owner of the mark. *Id.* at 1244.

Similarly, in *In re Tong Yang Cement Corp.*, 19 U.S.P.Q.2d 1689 a design mark was registered in Korea by a joint venture consisting of three corporations. *Id.* at 1690. One of the corporation subsequently filed an application in the United States for the same mark claiming priority based on the Korean registration. *Id.* The applicant then sought to amend the United States application to identify all three entities as the owner. *Id.* The TTAB refused, finding that it would be improper “to

allow amendment of the application to show the joint venture to have applied, when in fact only one member did so, and did so on its own behalf, rather than on behalf of the combined companies.” *Id.* The TTAB distinguished this case from other cases permitting an amendment when such an amendment was only “changing **the way the owner was identified.**” *Id.* (emphasis added)

Here, the name and entity type as it currently appears on the Application is not that of a related corporation, nor was it one entity of a larger partnership or joint venture as was the situation in the cases identified.

Instead, the Board relied on the language in *Accu Personel Inc. v. Accustaff Inc.*, 38 U.S.P.Q.2d 1443 (TTAB 1996) for the proposition that an amendment is not permitted if the applicant identified in the application by luck happens to be a legitimate existing entity. However, the language relied upon by the Board is misapplied, the language refers to a situation in which an application is filed in the name of a not yet formed entity. *Accu Personel Inc.*, 38 U.S.P.Q.2d at 1443. In such instances, an amendment is permitted because the intention of the applicant is clear. The Board improperly attempts to create the negative of this rule by asserting that the existence of an entity, no matter how unrelated, demonstrates that a party intended to file the application in that entities name. This line of reasoning exceeds rationalle presented in *Accu Personel Inc.*

Even assuming that the quote was not misapplied and an amendment is not permitted if, through bad luck, an unrelated company exists with the same name, no corporation exists in California named “American International Industries.” (Keegan Dec. ¶ 2) Instead, the Board has identified an unrelated entity which is similarly named “American International Industries, Inc.” This entity has no relation to Applicant. (Ryzman Dec. ¶ 2) Aside from the difference in the name, there are numerous other distinctions that demonstrate that there is no relationship between the two entities. First, the addresses of the two entities, Camarillo, California & Commerce, California, are approximately sixty miles apart from each other. (Keegan Dec. ¶ 5) Second, Applicant’s attorney had no authority to file an application on behalf of American International Industries, Inc. (Keegan Dec. ¶ 4) Finally, there is no relationship between Applicant and any similarly named corporate entity identified on the California Secretary of State’s website. (Keegan Dec. ¶ 3)

#### **IV. CONCLUSION**


The facts adequately demonstrate that the misidentification of Applicant’s entity type was a clerical error performed without any intent to deceive and not the result of a misidentification of the proper owner of the GELIQUE mark. Applicant’s Motion is not an attempt to substitute one entity for another. As a result, an amendment should be granted permitting Applicant to correct its entity status.

Applicant requests that the Application be amended to state the true and correct owner of the Application, from the filing date to the present, as:

American International Industries, a General Partnership made up of Glamour Industries Co., a California corporation; ARYZ Corp., a California corporation; ERX Corp., a California corporation, and RAZY Properties Inc., a California corporation.

Dated: April 29, 2011

Mark D. Kremer  
Kevin R. Keegan, member of  
CONKLE, KREMER & ENGEL  
Professional Law Corporation

By:   
\_\_\_\_\_  
Kevin R. Keegan  
Attorneys for Applicant American  
International Industries

**Kevin R. Keegan**  
**Declaration**

## **DECLARATION OF KEVIN R. KEEGAN**

I, Kevin R. Keegan, hereby declare as follows:

1. I am an active member of the State Bar of California. I am a member of Conkle, Kremer & Engel, which is counsel of record for Applicant American International Industries. I make this declaration of facts known to me and, if called upon, I could and would testify competently to the facts stated herein.

2. I have searched the records of the California Secretary of State and found that no corporation under the name "American International Industries" has existed in California at any time since the filing of this Application until today. A true and correct copy of my search results are attached as Exhibit 1.

3. The search results depicted in Exhibit 1 show that a suspended corporation exists under the name "American International Industries, Inc." This corporation has no relation to my client American International Industries.

4. Our firm has not ever and does not currently represent American International Industries, Inc. of Camarillo, California or any of the other entities identified in Exhibit 1 and has no authority to act on behalf of any of the corporations in Exhibit 1.


5. Using maps.google.com, I determined that the driving distance between Camarillo, California and Commerce, California was approximately sixty miles.

6. My client, American International Industries, is a California general partnership. Attached hereto as Exhibit 2, is a true and correct copy of American

International Industries Statement of Partnership Authority which has been filed with the California Secretary of State. By filing the Statement of Partnership Authority American International Industries has registered as a general partnership in California.

7. American International Industries is a manufacturer of numerous cosmetic products including nail care products. Attached hereto as Exhibit 3 is a true and correct copy of American International Industries website showing the many nail care products manufactured and sold by American International Industries.

I declare under penalty of perjury under the laws of the State of California and United States of America that the foregoing facts are true and correct, and that this declaration was executed on April 29, 2011.

  
\_\_\_\_\_  
Kevin R. Keegan

# **Maxwell Harwitt Declaration**



## **DECLARATION OF MAXWELL HARWITT**

I, Maxwell Harwitt, hereby declare as follows:

1. I am a paralegal at the law firm Conkle, Kremer & Engel, which is counsel of record for American International Industries. I make this declaration of facts known to me and, if called upon, I could and would testify competently to the facts stated herein.

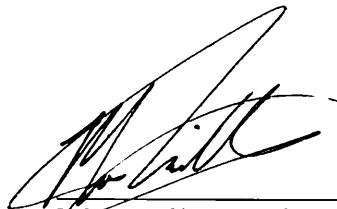
2. As part of my employment I process and perform the majority of trademark applications filed by our office. As part of this process I generally prepare the trademark applications which are then reviewed and approved by an attorney in my office.

3. During my employment I have prepared numerous trademark applications for American International Industries including the GELIQUE trademark at issue in this Motion.

4. In preparing the GELIQUE application, I inadvertently identified American International Industries as a California corporation, when it should have been identified as a general partnership. This was a simple clerical mistake that was made with no intention to deceive or mislead. The error resulted from the simple and accidental error of clicking on the wrong entity designation in the TEAS electronic application. Attached as Exhibit 4 is a screenshot which accurately depicts the entity designation question in the TEAS electronic application.

5. American International Industries has over eighty trademark registrations in class three and currently has seventeen trademark applications pending in class three.

I declare under penalty of perjury under the laws of the State of California and United States of America that the foregoing facts are true and correct, and that this declaration was executed on April 29, 2011.

A handwritten signature in black ink, appearing to read 'Maxwell Harwitt', is written over a horizontal line.

Maxwell Harwitt

# **Zvi Ryzman Declaration**

## DECLARATION OF ZVI RYZMAN

I, Zvi Ryzman, hereby declare as follows:

1. I am President of Glamour Industries Company, the managing partner of American International Industries, a California general partnership ("AII"). I make this declaration of facts known to me and, if called upon, I could and would testify competently to the facts stated herein.

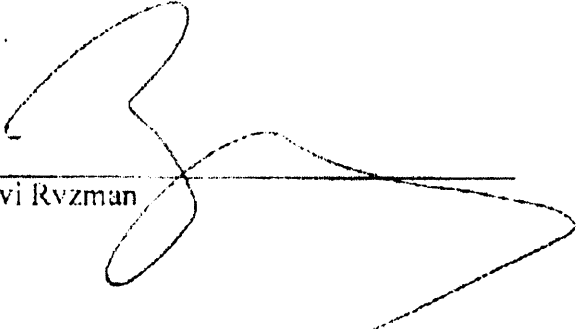
2. AII was formed as a general partnership in May 1972. AII has never been located in Camarillo, California and AII is not related to the suspended corporation American International Industries, Inc. located in Camarillo, California. Nor has AII ever done business with American International Industries, Inc.

3. AII instructed Conkle, Kremer, & Engel, PLC to file an application in the name of AII for the trademark GELIQUE for nail care goods on or around July 8, 2010.

4. Attached as Exhibit 2 is a true and correct copy of a Statement of Partnership Authority I signed on behalf of Glamour Industries, Co., and caused to be filed with the California Secretary of State on March 06, 2008.

I declare under penalty of perjury under the laws of the State of California and United States of America that the foregoing facts are true and correct, and that this declaration was executed on April 28, 2011.

Zvi Ryzman



# **Exhibit 1**



Secretary of State

Administration

Elections

**Business Programs**

Political Reform

Archives

Registries

**Business Entities (BE)**

## Online Services

- **Business Search**
- **Disclosure Search**
- **E-File Statements**
- **Processing Times**

## Main Page

## Service Options

## Name Availability

## Forms, Samples &amp; Fees

## Annual/Biennial Statements

## Filing Tips

**Information Requests**  
 (certificates, copies &  
 status reports)

## Service of Process

## FAQs

## Contact Information

## Resources

- **Business Resources**
- **Tax Information**
- **Starting A Business**
- **International Business Relations Program**

## Customer Alert

 (misleading business  
 solicitations)
**Business Search - Results**

Data is updated weekly and is current as of Friday, April 22, 2011. It is not a complete or certified record of the entity.

- *Select an entity name below to view additional information.* Results are listed alphabetically in ascending order by entity name.
- For information on checking or reserving a name, refer to **Name Availability**.
- For information on ordering certificates, copies of documents and/or status reports or to request a more extensive search, refer to **Information Requests**.
- For help with searching an entity name, refer to **Search Tips**.
- For descriptions of the various fields and status types, refer to **Field Descriptions and Status Definitions**.

Results of search for " AMERICAN INTERNATIONAL INDUSTRIES " returned 6 entity records.

Entity Number	Date Filed	Status	Entity Name	Agent for Service of Process
C2684163	10/28/2004	DISSOLVED	<b><u>AMERICAN INDUSTRIES INTERNATIONAL</u></b>	PETROS B PAULUS
C0858421	01/04/1978	DISSOLVED	<b><u>AMERICAN INTERNATIONAL INDUSTRIES OVERSEAS INCORPORATED</u></b>	
C2122540	09/30/1998	SUSPENDED	<b><u>AMERICAN INTERNATIONAL INDUSTRIES, INC.</u></b>	DAVID EISENSTEIN
C1313461	07/19/1984	SUSPENDED	<b><u>AMERICAN INTERNATIONAL PACIFIC INDUSTRIES, CORP.</u></b>	PASCO PONTICELLI JR
C1776575	01/17/1996	DISSOLVED	<b><u>AMERICAN SOUTH FOCUS INTERNATIONAL INDUSTRIES LTD.</u></b>	NING ZHANG
C0526061	05/02/1967	SUSPENDED	<b><u>INTERNATIONAL AMERICAN INDUSTRIES</u></b>	

**Modify Search**   **New Search**

**Privacy Statement** | **Free Document Readers**

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## **Exhibit 2**

**State of California**  
Secretary of State



I, DEBRA BOWEN, Secretary of State of the State of California, hereby certify:

That the attached transcript of 1 page(s) was prepared by and in this office from the record on file, of which it purports to be a copy, and that it is full, true and correct.



IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this day of

JUN 24 2008

*Debra Bowen*

DEBRA BOWEN  
Secretary of State





**State of California**  
**Secretary of State**

GP-1

File # 302008099003

Document # 28258

**FILED** *PF*  
in the office of the Secretary of State  
of the State of California

**MAR 06 2008**

**STATEMENT OF PARTNERSHIP AUTHORITY**

A \$70.00 filing fee must accompany this form.

**IMPORTANT – Read instructions before completing this form.**

This Space For Filing Use Only

**PARTNERSHIP NAME**

**1. NAME OF PARTNERSHIP**

American International Industries

**OFFICE ADDRESSES** (Do not abbreviate the city. Items 2 and 3 cannot be P.O. Boxes.)

**2. STREET ADDRESS OF CHIEF EXECUTIVE OFFICE**

**CITY AND STATE**

**ZIP CODE**

2220 Gaspar Avenue

Los Angeles, CA

60040

**3. STREET ADDRESS OF CALIFORNIA OFFICE, IF ANY**

**CITY**

**STATE**

**ZIP CODE**

CA

**NAMES & ADDRESSES OF PARTNERS** (Complete Item 4 with the names and mailing addresses of all the partners (attach additional pages if necessary) OR leave Item 4 blank and proceed to Item 5. Any attachments to this document are incorporated herein by this reference.)

**4. NAME**

**ADDRESS**

**CITY AND STATE**

**ZIP CODE**

NAME

ADDRESS

CITY AND STATE

ZIP CODE

NAME

ADDRESS

CITY AND STATE

ZIP CODE

**APPOINTED AGENT** (If Item 4 was not completed, complete Item 5 with the name and mailing address of an agent appointed and maintained by the partnership who will maintain a list of the names and mailing addresses of all the partners. If Item 4 was completed, leave Item 5 blank and proceed to Item 6.)

**5. NAME**

**ADDRESS**

**CITY AND STATE**

**ZIP CODE**

Glamour Industries Co.

2220 Gaspar Avenue

Los Angeles, CA

90040

**AUTHORIZED PARTNERS** (Enter the name(s) of all the partners authorized to execute instruments transferring real property held in the name of the partnership. Attach additional pages if necessary. Any attachments to this document are incorporated herein by this reference.)

**6. PARTNER NAME:** Glamour Industries Co.

**PARTNER NAME:**

**PARTNER NAME:**

**PARTNER NAME:**

**PARTNER NAME:**

**PARTNER NAME:**

**ADDITIONAL INFORMATION**

**7. ADDITIONAL INFORMATION SET FORTH ON THE ATTACHED PAGES, IF ANY, IS INCORPORATED HEREIN BY THIS REFERENCE AND MADE PART OF THIS DOCUMENT.**

**EXECUTION** (If additional signature space is necessary, the dated signature(s) with verification(s) may be made on an attachment to this document. Any attachments to this document are incorporated herein by this reference.)

**8. I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING IS TRUE AND CORRECT OF MY OWN KNOWLEDGE.**

**SIGNATURE OF PARTNER**

**DATE**

Glamour Industries

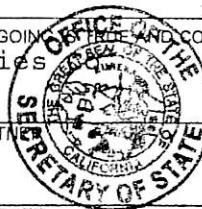
Zvi Ryzman, President

**TYPE OR PRINT NAME OF PARTNER**

ERX Corp.

Elie Ryzman, President

**TYPE OR PRINT NAME OF PARTNER**



## **Exhibit 3**



About All Beauty  
Company Brands  
Skin Care

## COMPANY BRANDS

SKIN CARE

NAIL CARE

LASHES

HAIR CARE

MENS

china glaze.

EzFlow

SuperNail.

-ibd-

Seche

5 second.

Gena.

DeLore®

esn

china glaze.

live in colour™



china glaze.

[Visit the brand website](#)

We believe in the power and beauty within every woman. We believe in putting your best perfectly pedicured foot forward. And we say, don't hide those hands because you're worried they show your age but talk with them because the colour at your fingertips speaks volumes!

We will compliment every outfit for all of your lifestyle changes.

## **Exhibit 4**

**Trademark/Service Mark Application, Principal Register**  
**TEAS Plus Application (Version 4.8)**

**Applicant Information**

**Note:** This identifies who owns the mark, not necessarily who is filing the application.

**Note:** If there is more than one owner of the mark, complete the information for the first owner, and then click on the "Add Owner" button at the bottom of this page. Repeat, as necessary, for the appropriate listing of all owners. Warning: It is important to determine whether, in fact, the applicants are joint applicants, or some other entity type listed below.

**\* Owner of Mark**

American International Industries  
[If an individual, use the following format: Last Name, First Name Middle Initial or Name, if applicable]

☐ DBA (doing business as) ☐ AKA (also known as)  
☐ TA (trading as) ☐ Formerly

**\* Entity Type**

- ☐ Individual
- ☒ Corporation
- ☐ Limited Liability Company
- ☐ Partnership
- ☐ Limited Partnership
- ☐ Joint Venture
- ☐ Sole Proprietorship
- ☐ Trust
- ☐ Estate
- ☐ Other

**\* State or Country of Incorporation**

If U.S. Corporation  
California

OR

If non-U.S. Corporation  Select Country

**Internal Address**

**PROOF OF SERVICE**

**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of Los Angeles, State of California. My business address is 3130 Wilshire Boulevard, Suite 500, Santa Monica, California 90403-2351.


On April 29, 2011, I served true copies of the following document(s) described as **MOTION TO CORRECT APPLICANT'S ENTITY TYPE; DECLARATIONS OF KEVIN R. KEEGAN, MAXWELL HARWITT, AND ZVI RYZMAN; EXHIBITS 1 THROUGH 4** on the interested parties in this action as follows:

**Jay Geller  
12100 Wilshire B1., Suite 500  
Los Angeles, CA 90025  
UNITED STATES**

**BY MAIL:** I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with Conkle, Kremer & Engel's practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on April 29, 2011, at Santa Monica, California.

  
\_\_\_\_\_  
Erlinda Bernabe

**PROOF OF SERVICE**

**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of Los Angeles, State of California. My business address is 3130 Wilshire Boulevard, Suite 500, Santa Monica, California 90403-2351.


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**Jay Geller  
12100 Wilshire B1., Suite 500  
Los Angeles, CA 90025  
UNITED STATES**

**BY MAIL:** I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with Conkle, Kremer & Engel's practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on April 29, 2011, at Santa Monica, California.

  
\_\_\_\_\_  
Erlinda Bernabe